

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ORDER

On April 9, 2007, Defendant Gwendolyn Smith Kennedy filed a Motion to Continue April 23, 2007 Trial. (Doc. # 22.) While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. § 3161(c)(1). See *United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990).

The Act excludes from this 70 day period any "[a]ny period of delay resulting from other proceedings concerning the defendant, including . . . delay resulting from any proceeding, including any examinations, to determine the mental competency or physical capacity of the defendant." 18 U.S.C. § 3161(h)(1)(A).

In Kennedy's motions to continue, her counsel asserts that a scheduled mental evaluation of the defendant cannot be completed in time for trial. The government does not oppose the motion.

Accordingly, it is hereby ORDERED that:

1. The motion to continue (Docs. # 22) is GRANTED.
2. The trial of this case is continued from the April 23, 2007, trial term to the August 6, 2007, trial term.
3. The Magistrate Judge shall conduct a pretrial conference prior to the August 6, 2007, trial term and enter a pretrial conference order.

DONE this 10th day of April, 2007.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE